

LAW LIBRARY OF CONGRESS
RIGHTS OF PEOPLE WITH DISABILITIES

CANADA

SUMMARY

Canada does not have a single statute equivalent to the Americans with Disabilities Act; instead emphasis is placed on access to justice and enforcement, rather than on the enactment of new legislation to consolidate the large number of laws and regulations in various fields that now apply. There is a statement in the Canadian Charter of Rights and Freedoms adopted in 1983 that extends equal treatment, protection, and benefits to those with mental or physical disabilities. The Canadian Human Rights Act and counterpart legislation in each province extends nondiscrimination provisions to the private sector, with some differences in laws from province to province.

Scope of Coverage.

The following protections are provided under the Canadian Human Rights Act and other federal and provincial legislation:

- There is protection against discrimination in hiring, or treatment of an employee based on disability, unless there are *bona fide* reasons for occupational requirements.
- No jobs may be advertised in a way that expresses or implies limitations or preferences based on a prohibited discrimination.
- Employment equity laws apply to the Federal Government and employers who have 100 or more employees; employers must conduct workforce surveys to determine if there is underrepresentation of any category and develop plans to compensate.
- Each transportation carrier or mode must function in a way that does not have undue obstacles to the mobility of persons with disabilities.
- Public accommodation access is enforced through cases brought by individuals when lack of access constitutes a form of discrimination.
- Telecommunications carriers are required to offer TTY service for the deaf at a discount and must accept only phones that have a switch to make them compatible with hearing aids.

Legislative intent.

Emphasis is placed on access to justice and to the rights of the disabled to non-discriminatory treatment.

Public Policy Implementation.

The Canadian Human Rights Commission investigates complaints; provincial commissions do the same. The Canadian Human Rights Act is administered by the Minister of Justice. Other regulations are implemented by the appropriate agencies; for example, the Canada Transport Agency for transportation services.

Enforcement and Remedies.

The non-discrimination provisions of the Charter are enforceable only through the courts; standards and tests are still being developed. Cases found by human rights commissions to warrant an inquiry are sent to special, quasi-judicial tribunals that can issue binding, enforceable orders. Commissions can direct employers to take action to comply with the Canadian Human Rights Act, but there are limits on the type of orders it can issue. For example, companies can not be ordered to hire or promote unqualified persons or to use quotas. Failure to file required reports in full can be punished with a fine of up to Can\$10,000 for a single incident or Can\$50,000 for a continued pattern of violations. Criminal sanctions can be applied to transportation providers that do not follow regulations on accessibility.

Affirmative Defenses.

In employment discrimination cases, consideration must be given to whether accommodation of a disability would impose undue hardship on an employer. In transportation services, exemptions are based on whether there is an undue obstacle to usage of the service.